

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1277, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 6, between lines 27 and 28, begin a new paragraph and insert:
- 2 "SECTION 8. IC 13-18-22-5, AS ADDED BY P.L.282-2003,
- 3 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: Sec. 5. (a) The rules adopted under section 3 of this
- 5 chapter:
- 6 (1) must require that the applicant demonstrate, as a prerequisite
- 7 to the issuance of the permit, that wetland activity:
- 8 (A) is **without reasonable alternative and is** reasonably
- 9 necessary or appropriate to achieve a legitimate use proposed
- 10 by the applicant on the property on which the wetland is
- 11 located; and
- 12 (B) for a Class III wetland, is without practical alternative and
- 13 will be accompanied by taking steps that are practicable and
- 14 appropriate to minimize potential adverse impacts of the
- 15 discharge on the aquatic ecosystem of the wetland;
- 16 (2) except as provided in subsection (c), must establish that
- 17 compensatory mitigation will be provided as set forth in section 6
- 18 of this chapter to reasonably offset the loss of wetlands allowed
- 19 by the permits; and
- 20 (3) may prescribe additional conditions that are reasonable and

1 necessary to carry out the purposes of this chapter.

2 (b) The rules adopted under section 4 of this chapter must require,
3 as a prerequisite to the applicability of the general permit by rule to a
4 specific wetland activity, that the person proposing the discharge
5 submit to the department a notice of intent to be covered by the general
6 permit by rule that:

7 (1) identifies the wetlands to be affected by the wetland activity;
8 and

9 (2) except as provided in subsection (c), provides a compensatory
10 mitigation plan as set forth in section 6 of this chapter to
11 reasonably offset the loss of wetlands allowed by the general
12 permit.

13 (c) Under subsections (a) and (b), the rules adopted under sections
14 3 and 4 of this chapter may provide for exceptions to compensatory
15 mitigation in specific, limited circumstances.

16 (d) For purposes of subsection (a)(1)(A):

17 (1) a resolution of the executive of the county or municipality in
18 which the wetland is located; or

19 (2) a permit or other approval from a local government entity
20 having authority over the proposed use of the property on which
21 the wetland is located;

22 that includes a specific finding that the wetland activity is **without**
23 **reasonable alternative and is** reasonably necessary or appropriate to
24 achieve the intended use of the property is considered conclusive
25 evidence of that fact."

26 Page 7, line 14, strike "The" and insert "**Subject to subsection (f),**
27 **the**".

28 Page 7, line 18, strike "that deadline," and insert "**the deadline**
29 **under this subsection or subsection (f),**".

30 Page 7, between lines 38 and 39, begin a new paragraph and insert:

31 "**(f) The department may notify the applicant that the**
32 **completed application referred to in subsection (a) is deficient. If**
33 **the department fails to give notice to the applicant under this**
34 **subsection not later than fifteen (15) days after the department's**
35 **receipt of the completed application, the application is considered**
36 **not to have been deficient. After receipt of a notice under this**

1 subsection, the applicant may submit an amended application that
2 corrects the deficiency. The department shall make a decision to
3 issue or deny an individual permit under the amended application
4 within a period that ends a number of days after the date the
5 department receives the amended application equal to the
6 remainder of:

- 7 (1) one hundred twenty (120) days; minus
8 (2) the number of days the department held the initial
9 application before giving a notice of deficiency under this
10 subsection."

11 Renumber all SECTIONS consecutively.

(Reference is to HB 1277 as reprinted February 5, 2004.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

Gard

Chairperson